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10 fka Countrywide Home Loans Servicing L.P.

11 **UNITED STATES BANKRUPTCY COURT**

12 **DISTRICT OF NEVADA**

13 In Re:

BK-S-09-24748 MKN

14 NICOLAS FLORES LOPEZ,

Date: November 12, 2009

15 NORMA LOPEZ

Time: 2:30 p.m.

16 Debtors.

Chapter 13

17 **OPPOSITION TO MOTION TO VALUE DEBTOR'S NON-PRINCIPAL RESIDENCE REAL**  
18 **PROPERTY, TO MODIFY THE RIGHTS OF PARTIALLY SECURED AND AND WHOLLY**  
19 **UNSECURED LIENHOLDERS AND OBJECTION TO LIENHOLDERS' PROOF(S) OF**  
20 **CLAIM, IN ANY**

21 COMES NOW, BAC Home Loans Servicing, L.P. fka Countrywide Home Loans Servicing L.P.  
22 (Hereinafter "Secured Creditor") and files this Opposition stating as follows:  
23

24 Undersigned counsel apologizes to the Court and Debtors' counsel for filing this late opposition  
25 but he only recently received the file and reviewed the same.

26 Secured Creditor is the first deed of trust holder on 2624 Lincoln Road, Las Vegas, Nevada,  
89115, (hereinafter "subject property"), and is owed over \$184,000.00. Prior to the Court reducing the  
lien to \$117,665.00, (resulting in an approximate loss of \$70,000.00), the Court should allow Secured  
Creditor to; 1) obtain its own valuation of the subject property, and 2) conduct limited discovery to  
verify that the Debtors are being truthful with the Court as detailed below.

1 Secured Creditor asserts that the subject property should be treated as the Debtors' personal  
2 residence and not subject to a lien-strip of any kind pursuant to 11 USC 1322. The information  
3 disclosed in the petition is full of inconsistencies as to whether or not the subject property is a rental  
4 property.

5 The Debtors did not list a residential lease for the subject property in their Schedule "G" yet they  
6 label it a rental property in their motion. (See exhibit "A"). Secured Creditor would like an  
7 opportunity to see a copy of any leases the Debtors have had, or currently have, concerning the subject  
8 property.

9 Schedule "I" of the Debtors does not list any rental income from the subject property. Likewise,  
10 in response to question 2 of the Debtors' Statement of Financial Affairs, they asserted that they have not  
11 had any rental income from the subject property for the past two years. (See exhibit "B").

12 The Debtors list in their schedule "J" that their "Rent or home mortgage payment" is \$1,740.00  
13 per month leaving only \$333.33 per month to make plan payments and any payment to this Secured  
14 Creditor. (See exhibit "C").

15 The Court should not rely on a one page printout from the internet as a valuation of the subject  
16 property. It is a website called Cyberhomes which can not be used for evidence. Secured Creditor  
17 would like to obtain its own appraisal.

18 Presuming that the Debtors moved out of the subject property prior to this bankruptcy, Secured  
19 Creditor asserts that it was not the intent of Congress to allow a debtor to move out of its residence  
20 during the life of a plan to circumvent the prohibitions of modifying a debt secured by a residence. See  
21 11 USC 1322(c)(2). There are too many unanswered questions in the Debtors' attempt to treat the  
22 subject property as a rental and strip a large portion of Secured Creditor's interest in the same.

23 Finally, Secured Creditor disputes the \$117,665.00 valuation of the property. If the Court is  
24 inclined to allow the Debtors to go forward, Secured Creditor asks for some time to obtain its own  
25 appraisal and find out the information listed above.

1 WHEREFORE, Secured Creditor asks that this Court deny the requested relief.

2 DATED this 9<sup>th</sup> day of November, 2009.

3  
4 WILDE & ASSOCIATES

5 By 

6 GREGORY L. WILDE, ESQ.

7 Attorneys for Secured Creditor

8 208 South Jones Boulevard  
9 Las Vegas, Nevada 89107

10 Certificate of Facsimile

11 I certify that on November 10, 2009, I served a copy of the foregoing opposition on Debtors'

12 Counsel by facsimile as follows:

13 Jorge L. Sanchez, Esq.  
14 Sanchez Law Group, Ltd.  
15 Fax No. 537-2800

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26 

B6G (Official Form 6G) (12/07)

In re **Nicolas Flores Lopez,  
Norma Lopez**

Case No. \_\_\_\_\_

Debtors

**SCHEDULE G - EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

Describe all executory contracts of any nature and all unexpired leases of real or personal property. Include any timeshare interests. State nature of debtor's interest in contract, i.e., "Purchaser", "Agent", etc. State whether debtor is the lessor or lessee of a lease. Provide the names and complete mailing addresses of all other parties to each lease or contract described. If a minor child is a party to one of the leases or contracts, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m).

☒ Check this box if debtor has no executory contracts or unexpired leases.

Name and Mailing Address, Including Zip Code,  
of Other Parties to Lease or Contract

Description of Contract or Lease and Nature of Debtor's Interest.  
State whether lease is for nonresidential real property.  
State contract number of any government contract.

1. [Faint, illegible text describing executory contracts and leases]

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continuation sheets attached to Schedule of Executory Contracts and Unexpired Leases

**EXHIBIT "A"**

B6I (Official Form 6I) (12/07)

In re **Nicolas Flores Lopez**  
**Norma Lopez**

Case No. \_\_\_\_\_

Debtor(s)

**SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S)**

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child. The average monthly income calculated on this form may differ from the current monthly income calculated on Form 22A, 22B, or 22C.

Debtor's Marital Status:	DEPENDENTS OF DEBTOR AND SPOUSE	
<b>Married</b>	RELATIONSHIP(S): <b>Son</b> <b>Son</b>	AGE(S): <b>12</b> <b>14</b>
Employment:	DEBTOR	SPOUSE
Occupation	<b>Laborer</b>	
Name of Employer	<b>US Food Service</b>	<b>Unemployed</b>
How long employed	<b>3 years</b>	
Address of Employer	<b>9755 Patuxent Woods Drive Columbia, MD 21046</b>	

INCOME: (Estimate of average or projected monthly income at time case filed)	DEBTOR	SPOUSE
1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)	\$ <b>3,783.00</b>	\$ <b>0.00</b>
2. Estimate monthly overtime	\$ <b>0.00</b>	\$ <b>0.00</b>
3. SUBTOTAL	\$ <b>3,783.00</b>	\$ <b>0.00</b>
4. LESS PAYROLL DEDUCTIONS		
a. Payroll taxes and social security	\$ <b>541.67</b>	\$ <b>0.00</b>
b. Insurance	\$ <b>0.00</b>	\$ <b>0.00</b>
c. Union dues	\$ <b>0.00</b>	\$ <b>0.00</b>
d. Other (Specify): _____	\$ <b>0.00</b>	\$ <b>0.00</b>
5. SUBTOTAL OF PAYROLL DEDUCTIONS	\$ <b>541.67</b>	\$ <b>0.00</b>
6. TOTAL NET MONTHLY TAKE HOME PAY	\$ <b>3,241.33</b>	\$ <b>0.00</b>
7. Regular income from operation of business or profession or farm (Attach detailed statement)	\$ <b>0.00</b>	\$ <b>0.00</b>
8. Income from real property	\$ <b>0.00</b>	\$ <b>0.00</b>
9. Interest and dividends	\$ <b>0.00</b>	\$ <b>0.00</b>
10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above	\$ <b>0.00</b>	\$ <b>0.00</b>
11. Social security or government assistance (Specify): _____	\$ <b>0.00</b>	\$ <b>0.00</b>
12. Pension or retirement income	\$ <b>0.00</b>	\$ <b>0.00</b>
13. Other monthly income (Specify): _____	\$ <b>0.00</b>	\$ <b>0.00</b>
14. SUBTOTAL OF LINES 7 THROUGH 13	\$ <b>0.00</b>	\$ <b>0.00</b>
15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)	\$ <b>3,241.33</b>	\$ <b>0.00</b>
16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15)	\$ <b>3,241.33</b>	

(Report also on Summary of Schedules and, if applicable, on Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:

**EXHIBIT "B"**



B6J (Official Form 6J) (12/07)

In re **Nicolas Flores Lopez**  
**Norma Lopez**

Debtor(s)

Case No. \_\_\_\_\_

**SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S)**

Complete this schedule by estimating the average or projected monthly expenses of the debtor and the debtor's family at time case filed. Prorate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate. The average monthly expenses calculated on this form may differ from the deductions from income allowed on Form 22A or 22C.

☐ Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

1. Rent or home mortgage payment (include lot rented for mobile home)	\$	1,740.00
a. Are real estate taxes included? Yes _____ No <u>X</u>		
b. Is property insurance included? Yes _____ No <u>X</u>		
2. Utilities:		
a. Electricity and heating fuel	\$	150.00
b. Water and sewer	\$	65.00
c. Telephone	\$	61.00
d. Other	\$	0.00
3. Home maintenance (repairs and upkeep)	\$	0.00
4. Food	\$	550.00
5. Clothing	\$	0.00
6. Laundry and dry cleaning	\$	0.00
7. Medical and dental expenses	\$	0.00
8. Transportation (not including car payments)	\$	165.00
9. Recreation, clubs and entertainment, newspapers, magazines, etc.	\$	0.00
10. Charitable contributions	\$	0.00
11. Insurance (not deducted from wages or included in home mortgage payments)		
a. Homeowner's or renter's	\$	0.00
b. Life	\$	0.00
c. Health	\$	52.00
d. Auto	\$	125.00
e. Other	\$	0.00
12. Taxes (not deducted from wages or included in home mortgage payments)		
(Specify)	\$	0.00
13. Installment payments: (In chapter 11, 12, and 13 cases, do not list payments to be included in the plan)		
a. Auto	\$	0.00
b. Other	\$	0.00
c. Other	\$	0.00
14. Alimony, maintenance, and support paid to others	\$	0.00
15. Payments for support of additional dependents not living at your home	\$	0.00
16. Regular expenses from operation of business, profession, or farm (attach detailed statement)	\$	0.00
17. Other	\$	0.00
Other	\$	0.00

18. AVERAGE MONTHLY EXPENSES (Total lines 1-17. Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related Data.)

\$ 2,908.00

19. Describe any increase or decrease in expenditures reasonably anticipated to occur within the year following the filing of this document:

## 20. STATEMENT OF MONTHLY NET INCOME

a. Average monthly income from Line 15 of Schedule I	\$	3,241.33
b. Average monthly expenses from Line 18 above	\$	2,908.00
c. Monthly net income (a. minus b.)	\$	333.33

EXHIBIT "C"